

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**TARA FORD, as court appointed
Guardian ad Litem for
VANESSA S.**

Plaintiff,

vs.

No. CV-10-1253 JH-ACT

**ROSA HUNNICUTT, in her individual capacity,
KENNETH WATER HUNNICUTT, in his individual capacity,
CHERYL DUNFEE, in her individual capacity,
ANN HOLMES, in her individual capacity,
SUSAN DRAKE, in her individual capacity,
REBECCA HAWES, in her individual capacity,
YOLANDA BRIONES, in her individual capacity,
ELENA VELASCO, in her individual capacity,
DEAN MCDOUGAL, in his individual capacity,
CHILDREN YOUTH & FAMILIES DEPARTMENT,
and WILLIAM DUNBAR, in his official capacity
as Secretary of the New Mexico Children, Youth
& Families Department,**

Defendants,

Consolidated with:

**TARA FORD, as court appointed
Guardian ad Litem for
VANESSA S.**

Plaintiff,

vs.

No. CV-11-00033 JH-ACT

**ROSA HUNNICUTT, in her individual capacity,
KENNETH WATER HUNNICUTT, in his individual capacity,
CHERYL DUNFEE, in her individual capacity,
ANN HOLMES, in her individual capacity,
SUSAN DRAKE, in her individual capacity,
REBECCA HAWES, in her individual capacity,
YOLANDA BRIONES, in her individual capacity,
ELENA VELASCO, in her individual capacity,
DEAN MCDOUGAL, in his individual capacity,**

**CHILDREN YOUTH & FAMILIES DEPARTMENT,
and WILLIAM DUNBAR, in his official capacity
as Secretary of the New Mexico Children, Youth
& Families Department,**

Defendants.

MOTION FOR STIPULATED CONFIDENTIALITY ORDER

COMES NOW Plaintiffs and Defendants by and through counsel and move for the entry of a Stipulated Confidentiality Order. In support of this motion the parties stipulate:

1. Children, Youth and Families Department (“CYFD”) has the Biological family file (#107199) (Bates Stamped 6500-8707) concerning Plaintiff’s family of origin. This file contains records concerning Plaintiff’s biological parents, siblings and others as well as events leading to Plaintiff’s custody and health and/or mental health records. The following related FACTS files also exist #336609 (Bates Stamped 1500-1860; 2530-3147); #42279 (Bates Stamped 4500-5742) and ADAPT/Facts conversion file (Bates Stamped 9000-9161).
2. CYFD has the Hunnicutt foster/adopt file (#107189) (Bates Stamped 3501-4043) which contains records concerning the foster/adopt family and may contain investigation records.
3. The above described CYFD files are confidential records under NMSA 1978, §32A-4-33 and Section 8.27.2.31 N.M.A.C.
4. All parties have a legitimate interest in the records identified above in order to investigate and defend the claims in this lawsuit and the parties shall be entitled to receive copies of those records as provided below.

5. There continues to be a dispute between Plaintiff and CYFD as to whether these files should have been released to Plaintiff and attorney Peter Cubra in the manner requested and/or without a court order due to the confidentiality requirements of the Children's Code. Notwithstanding that dispute, Plaintiff, CYFD, Rosa Hunnicutt, Kenneth Walter Hunnicutt and individual defendants through counsel stipulate that, for purposes of discovery in this matter and for the factual development of some of the claims herein, the above described files shall be made available except as noted below subject to a confidentiality order as provided herein. The parties further stipulate that in providing these records CYFD may withhold or redact records of persons other than parties to this case, including siblings, and may withhold mental health or health records of persons not parties to this litigation at its discretion and may withhold records to which it claims a privilege or which it claims should not be disclosed. If any such records are withheld or redacted a log or index of said records shall be provided with a brief description of the document and reason for nondisclosure. The parties recognize that in many cases relevant documents may concern others and may be provided because of their relevance. For this reason and because of the confidential nature of all documents, the parties stipulate to the confidentiality provisions set forth herein.
6. The parties further stipulate that this order and Plaintiff's willingness to enter into this order shall not be evidence that Plaintiff was required to secure such an order to obtain the records in the manner previously requested, and shall not be considered evidence that her records could not have been produced by CYFD

without a court order.

7. The parties further stipulate that this order and CYFD's willingness to enter into this order shall not be evidence that Plaintiff was entitled to the records in the manner previously requested and shall not be considered evidence that records should have been produced without a court order, or evidence that Plaintiff's lawsuit was necessary to obtain the records or a motivating factor in the production of those records.
8. CYFD also has certain juvenile justice records related to Plaintiff. These records are subject to confidentiality pursuant to 32A-2-22 NMSA.
9. Plaintiff does not agree that Juvenile Justice records referenced in Paragraph 8 are relevant and does not stipulate to production in this stipulation. Defendants contend that JJS records are relevant and discoverable. The parties stipulate that their willingness to enter into this stipulation shall not be evidence that JJS records are or are not discoverable. No defendant waives any rights they have to production of JJS records and all parties reserve all claims and defenses concerning the discoverability of JJS records.
10. Nothing herein limits any party from requesting other records including Juvenile Justice records or from contesting the propriety of documents withheld or redacted.

All parties consent to and join in this Motion.

Electronically filed,

By: **/s/Timothy V. Flynn-O'Brien**

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By: **Electronically approved 4/14/2011**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April 2011 I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice for Electronic Filing:

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By: **/s/Timothy V. Flynn-O'Brien**

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